

RICHARDS, LAYTON & FINGER

A PROFESSIONAL ASSOCIATION

ONE RODNEY SQUARE

920 NORTH KING STREET

WILMINGTON, DELAWARE 19801

(302) 651-7700

FAX (302) 651-7701

WWW.RLF.COM

CHAD M. SHANDLER
DIRECTOR

DIRECT DIAL NUMBER
302-651-7836
SHANDLER@RLF.COM

December 19, 2006

VIA HAND DELIVERY AND ELECTRONIC FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
844 King Street
Wilmington, DE 19801

**Re: 3V, Inc. v. CIBA Specialty Chemicals Corporation, C.A. No. 06-00593-JJF;
CIBA Specialty Chemicals Corporation v. 3V, Inc., C.A. No. 06-00629 and
CIBA Specialty Chemicals Corporation v. 3V, Inc., C.A. No. 06-00672**

Dear Judge Farnan :

Pursuant to Your Honor's December 5, 2006 letter in C.A. 06-00593-JJF, counsel for the parties held a meet and confer on December 6, 2006 concerning not only the 06-00593 case, but also the other two related cases referenced above. As a result the parties have agreed upon a joint proposed pretrial scheduling order for all three cases.

As requested in the December 5th letter we tried to account for all events that can adversely affect our preparation for a trial.

All three cases involve the same U.S. patent 5,658,973 owned by 3V; and, at least to that extent, the same subject matter. The third case involves an additional patent, but it is from the same patent family as the application involved in the Patent Office interference and its specification is identical to the application in the interference. Additional issues are involved, but the subject matter is the same.

The cases involve extremely complex chemical subject matter. Hence, both parties would like promptly to settle their differences out of court. To this end, the parties have scheduled a settlement conference in Arlington, Virginia on January 10 and 11, 2007. Scheduling of the settlement conference has been difficult because representatives of one of the parties are coming from Switzerland and representatives of the other are coming from Italy. Moreover, because of the complexity of the issues it is believed that at least a second settlement conference will be required.

Accordingly, the parties have agreed, subject to the Court's approval, (1) to a 90 day stay of proceedings to permit the parties to fully explore a settlement, and (2) that the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2 will not be exchanged until

The Honorable Joseph J. Farnan, Jr.
December 19, 2006
Page 2

the deadline of March 20, 2007. In this respect, the parties would normally have held settlement conferences before the 06-593 case was even filed, but the filing was statutorily required before a settlement conference could be arranged.

Should further litigation become necessary, the parties will submit an agreed upon Protective Order for the Court's approval; and, subject to the Court's approval, the parties agree that the record in the Patent and Trademark Office should be admitted and that the parties will share the costs and expenses therefore. The parties, therefore, seek the Court's approval for the admission of the Patent and Trademark Office record as set forth in 35 U.S.C. § 146.

Should settlement not come about, the parties have also agreed that the witnesses in the Patent Office proceeding, as well as any additional witnesses, shall be subject to examination and cross-examination during the discovery phase of the referenced cases. Finally, the parties have jointly prepared and attached three stipulations and a proposed Rule 16 Joint Scheduling Order for the Court's consideration.

Joseph Grey, Esq., Delaware counsel for 3V, Inc., has approved this letter in all respects. If the Court should have any questions, counsel is available at Your Honor's convenience.

Respectfully,

A handwritten signature in black ink, appearing to read 'CMS' with a stylized flourish extending to the right.

Chad M. Shandler

CS:ps

Enclosure

cc: Clerk of Court (via e-filing)
Joseph Grey, Esq. (via hand delivery)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

3V, INC., a Delaware Corporation,)	
)	
Plaintiff)	
)	
v.)	C.A. No.06-00593-JJF
)	
CIBA SPECIALTY CHEMICALS)	
CORPORATION, a Delaware Corporation,)	
Defendants.)	
<hr/>		
CIBA SPECIALTY CHEMICALS)	
CORPORATION, a Delaware Corporation,)	
)	
Plaintiff)	C.A. No.06-00629-JJF
)	
v.)	
)	
3V, INC., a Delaware Corporation,)	
)	
Defendant.)	
<hr/>		
CIBA SPECIALTY CHEMICALS)	
CORPORATION, a Delaware Corporation,)	
)	
Plaintiff)	C.A. No.06-00672-JJF
)	
v.)	
)	
3V, INC., a Delaware Corporation,)	
)	
Defendant.)	

RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by March 20, 2007 the information required by Fed. R. Civ. P. 26(a) (1) and D. Del. LR 16.2.

2. **Joinder of Other Parties.** All motions to join other parties shall be filed on or before June 22, 2007.

3. **Discovery.**

(a) Subject to additional Discovery to be taken after depositions, exchange and completion of contention interrogatories, identification of fact witnesses, documents and electronic production shall be commenced so as to be completed by September 28, 2007.

(b) Maximum of 100 interrogatories, including contention interrogatories, for each side.

(c) Unlimited requests for admission by each side.

(d) Maximum of 10 depositions by each party, excluding expert depositions. Such depositions shall not commence until the discovery required by paragraphs 3 (a, b, and c) is completed, but additional discovery may be needed as a result of depositions.

(e) Depositions shall be completed by March 28, 2008.

(f) Any additional Discovery required as a result of the Depositions set forth in 3(e) shall be completed by May 30, 2008.

(g) Reports from retained experts in cases 06-00593-JJF and 06-00629-JJF required by Fed. R. Civ. P. 26(a)(2) are due from the party having the burden of proof by April 25, 2008; from the opposing party by June 27, 2008. Rebuttal reports are due August 15, 2008.

(h) Expert reports for the party having the burden of proof in C.A. No. 06-00672 shall be due on May 23, 2008; and for the opposing party on July 25, 2008. Rebuttal briefs are due on September 19, 2008.

(i) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties or ordered by the Court.

4. **Discovery Disputes.**

A party seeking discovery which the opposing party refuses to provide shall file a motion and brief in accordance with the procedures set forth in the Court's December 15, 2006 Standing Order. There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

5. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before June 13, 2008.

6. **Case Dispositive Motions.**

(a) Any motions challenging this Court's jurisdiction shall be filed by September 28, 2007.

(b) Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before October 17, 2008. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

7. **Markman.**

Because this case does not involve infringement issues, the parties do not presently see the need for a Markman hearing. Should the parties see a need for a Markman hearing, they will advise the Court.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. and shall comply with the procedures set forth in the Court's December 15, 2006 Standing Order. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.**

After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

United States District Court Judge

Dated: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CIBA SPECIALTY CHEMICALS)	
CORPORATION, a Delaware Corporation,)	
)	
Plaintiff)	
)	C.A. No. 06-672-JJF
v.)	
)	
3V, INC., a Delaware Corporation,)	
)	
Defendant.)	
_____)	

STIPULATION AND ORDER TO STAY THE PROCEEDINGS

CIBA Specialty Chemicals Corporation (“Plaintiff”) on the one side and 3V, Inc. (“Defendant”) on the other side (collectively, the “Parties”) have agreed to the following terms and conditions:

1. WHEREAS, the Parties have begun to engage in good faith settlement negotiations to resolve this case and case no. C.A. No. 06-00593-JJF and case no. C.A. No. 06-00629-JJF pending in this Court;
2. WHEREAS, the Parties agree to stay all dates, deadlines, and proceedings for 90 days so that they can engage in productive settlement discussions and hopefully finalize a settlement agreement;

NOW THEREFORE, the Parties stipulate to stay this case for 90 days subject to the terms set forth above.

SO STIPULATED.

Dated: December 19, 2006

/s/ Joseph Grey
Joseph Grey (#2358)
jg@stevenslee.com
STEVENS & LEE, P.C.
1105 North Market Street, Seventh Floor
Wilmington, DE 19801
(302) 654-5180

Raymond C. Stewart
Quentin R. Corrie
Birch, Stewart, Kolasch & Birch, LLP
8110 Gatehouse Road
Suite 100 East
Falls Church, VA 22040-0747

Counsel for 3V, Inc.

Dated: December 19, 2006

/s/ Chad M. Shandler
Frederick L. Cottrell, III (#2555)
cottrell@rlf.com
Chad M. Shandler (#3796)
shandler@rlf.com
Richards LAYTON & FINGER
One Rodney Square
P.O. Box 551
Wilmington, DE 19899
(302) 651-77000

Alan E.J. Branigan
Brion Heaney
Michael Culver
Millen White Zelano & Branigan, P.C.
2200 Clarendon Boulevard
Suite 1400
Arlington, VA 22201
*Counsel for CIBA Specialty Chemicals
Corporation*

IT IS SO ORDERED:

Date: _____

United States District Judge